



State of Idaho

DEPARTMENT OF WATER RESOURCES

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WD 37

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 30, 2002

Lee Peterson

Via Fax

Dear Lee:

Pursuant to our phone conversation yesterday I have researched the water rights associated with Magic Reservoir. I found that License 37-2116 was issued to the Idaho Irrigation Co. Ltd. on 6/29/1922 for 3000 cfs with a priority of 5/11/1908. This right was superceded by the Big Wood Canal Co vs. Chapman et. al. decree dated 7/2/1925. In that decree the BWCC was granted:

1925

- 37-867 3000 cfs priority 11/16/1905
- 37-870 3000 cfs priority 6/1/1920

The decree indicated that rights above and others in the decree are "declared supplementary to that certain judgment and decreecommonly known as the Frost decree and.....said rights shall be considered as of the same force and effect as if said rights were adjudicated in said Frost decree..."

My conclusion is that the rights are to be delivered by priority along with other rights in the Frost decree unless there is some other judgment or document that states otherwise I am not aware.

Additionally it appears from the water right and SRBA records that the storage volume in Magic Reservoir, although an integral part of the use of water, has not been specified in the records as a use as is now normally listed. As you indicated you think that BWCC is rectifying this situation. I encourage an amendment to their SRBA claims to list "Storage" as a use.

If you have questions please feel free to contact this office.

Sincerely,

Allen Merritt, PE
Southern Region Manager

CC: BWCC
Tim Luke, Doug Jones IDWR